

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
1:20-CR-66-MOC-DSC

UNITED STATES OF AMERICA,

Vs.

JAMES JOSEPH PODBIELSKI,

Defendant.

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**ORDER**

**THIS MATTER** is before the Court on the Government's Unopposed Motion to Dismiss the Indictment in this case and to terminate Defendant's supervised release. (Doc. No. 53).

The Government explains in the motion that since the Fourth Circuit Court of Appeals recently reversed and remanded this Court's denial of Defendant's motion to suppress and vacated Defendant's conviction,<sup>1</sup> the Government cannot proceed in a criminal prosecution of Defendant on the pending Indictment without the now suppressed evidence. See (Doc. No. 51). The Government therefore moves to dismiss the pending Indictment in this case.

The Government further notes that the Bureau of Prisons released Defendant in January of this year after completion of his sentence, so there is no need to order his release. However, Defendant is currently serving a term of supervised release. Thus, the Government also moves for an order terminating Defendant's supervised release.

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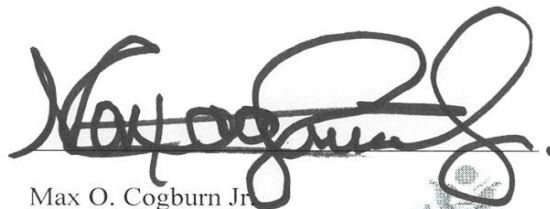
<sup>1</sup> Defendant pled guilty subject to the appeal of the denial of the motion to suppress, and this Court sentenced him to 30 months in prison. (Doc. No. 41). He has served the 30 months and is now on supervised release.

The Government notes that it has consulted with defense counsel concerning this motion, and defense counsel does not object.

The Government's Motion to Dismiss, (Doc. No. 53), is **GRANTED**, the Bill of Indictment is **DISMISSED**, and Defendant's supervised release is terminated.

**IT IS SO ORDERED.**

Signed: September 20, 2023



Max O. Cogburn Jr.  
United States District Judge